

**DOCKET NO.:** MSFT-0584/167511.02  
**Application No.:** 09/904,465  
**Office Action Dated:** August 10, 2005

**PATENT**

### **REMARKS**

Claims 1-20 are pending in the present application. Claims 1, 12 and 19 are the independent claims. In the Official Action, dated August 10, 2005, claims 1-3, 5, 7 and 9-11 were rejected under 35 U.S.C § 102 as allegedly anticipated by U.S. Patent No. 6,633,845 B1 (hereinafter "Logan"). Claims 4, 6 and 8 were rejected under 35 U.S.C. § 103(a) over Logan in view of U.S. Patent Application Publication No. 2001/0018858 A1 (hereinafter "Dwek"). Claims 12-20 were rejected under 35 U.S.C § 102(e) as allegedly anticipated by U.S. Patent No. 6,657,116 (hereinafter "Gunnerson").

#### ***Rejection of Claims based on Gunnerson***

Claims 12-20 were rejected under 35 U.S.C § 102 as allegedly anticipated by Gunnerson. In view of the Declaration submitted herewith under 37 CFR § 1.131 by inventor Theodore Calhoun Tanner, Jr., Applicants respectfully submit that the subject matter of the present application was invented prior to the effective date of Gunnerson, as defined in that Section. Accordingly, Applicants respectfully request that Gunnerson be removed as an applicable reference to the outstanding claims.

Reconsideration and withdrawal of the rejection to claims 12-20 under 35 U.S.C. § 102 is thus earnestly requested.

*Rejection of Claims based on Logan*

Claims 1-3, 5, 7 and 9-11 were rejected under 35 U.S.C § 102 as allegedly anticipated by Logan. The outstanding rejection based on Logan is respectfully traversed.

As described on page 10, last paragraph, of the present application, Applicants' invention includes three phases: determination of a data set to process, processing on that data set, and aggregation of the data set to a useful form. In this regard, the first phase, i.e., determination of a data set to process, corresponds to the step of "identifying media entity data for DSP processing" in Applicants' claim 1.

In contrast, Logan includes no such phase of identifying media entity data for DSP processing by the computing system. Instead, with Logan:

An audio input 210, which is preferably a song or a portion thereof, **is provided to the system 200**, as illustrated by arrow 212. As described herein the song is then processed by the various components of the system 200... See, e.g., Col. 3, lines 28-32 and Fig. 2

Thus, Logan teaches away from any such identifying step. See, for example, Applicants' description at page 11, second paragraph, of the application wherein it states "This check may be realized by performing a query on a cooperating data store (e.g., raw media data store 410 of Figure 4), to identify media entity data in need of DSP processing." Accordingly, Logan cannot be said to teach or suggest "*identifying* media entity data for DSP processing," as recited in claim 1.

Claims 2-11 depend from claim 1, and are believed allowable for the same reasons. Dwek was cited for reasons relating to the dependent claims, but fails to cure the above-identified deficiency of root reference Logan with respect to independent claim 1. Accordingly, reconsideration and withdrawal of the rejection of claims 1-12 under 35 U.S.C. § 102 is respectfully requested.

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### **CONCLUSION**

Applicants believe that the present reply is responsive to each of the points raised by the Examiner in the Office Action, and submit that Claims 1-20 of the application are in condition for allowance. Favorable consideration and passage to issue of the application at the Examiner's earliest convenience is earnestly solicited.

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